

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEREMY HANDLEY, INDIVIDUALLY AND NEXT
FRIEND OF AURORA HANDLEY AND BRENDAN HANDLEY,
AND BECKY HANDLEY,

Plaintiff,

vs.

Case No. 1:17-CV-00387-PLM-RSK
Hon. Paul L. Maloney

CITY OF KALAMAZOO, OFF. LAKISHA JONES,
STEVE SEISER, CRAIG HABEL, CHAD VANDERKLOK,
JUSTIN WOLBRINK AND DAVID BOYSEN

Defendant(s).

GREG LIEPSHUTZ (P37573)
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**PLAINTIFF'S BRIEF IN SUPPORT OF PLAINTIFF'S MOTION
TO SETTLE MINOR'S CLAIM**

I. Statement of Facts

The Plaintiffs, JEREMY HANDLEY, INDIVIDUALLY AND NEXT FRIEND OF AURORA HANDLEY AND BRENDAN HANDLEY, AND BECKY HANDLEY, sustained emotional damages as a result of Defendant's, CITY OF KALAMAZOO, OFF. LAKISHA JONES, STEVE SEISER, CRAIG HABEL, CHAD VANDERKLOK, JUSTIN WOLBRINK AND DAVID BOYSEN improper search of their home. As consideration for a Release of



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Claims by Plaintiffs, Defendant settled this case for \$8,500.00. **Exhibit A: Settlement Resolution and Release.** On June 6, 2019, Plaintiffs petitioned this Honorable Court to re-open this case for the purpose of having this Honroable Court approve the minor's portion of the settlement. This Honorable Court granted Plaintiff's motion to re-open this case on June 10, 2019.

II. **Argument**

Under USCS Federal Rules of Civil Procedure Rule 17(c), "[d]istrict courts have a special duty to safeguard the interest of litigants who are minors." *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011). The court must "conduct its own inquiry to determine whether the settlement serves the best interests of the minor," *id.* (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir. 1978)), and it must "ma[k]e an independent determination that the settlement [i]s in the minor's best interest." *Green v. Nevers*, 111 F.3d 1295, 1302 (6th Cir. 1997). The case at bar involves minors, and has been settled for \$8,500.00. **Exhibit A.** Plaintiffs Aurora Handley, age 13, and Brendan Handley, age 12, are both to receive \$1,250.00. Defendants concur in the relief sought by this motion as well. **Exhibit B: Certificate of Concurrence.** Plaintiff's counsel incurred costs of One Thousand Two Hundred Twenty & 48\100 (\$1,220.48) Dollars, attorney fees of Two Thousand Four Hundred Twenty-Six & 51\100 (\$2,426.51) Dollars, with Four Thousand Eight Hundred Fifty-Three & 01\100 (\$4,853.01) Dollars remains for the Plaintiffs. Thus, in accordance with R. 17(c) and the relevant case law, this Honorable Court should approve Plaintiffs' request to approve the settlement of the minors claims.



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III. Conclusion

WHEREFORE, Plaintiffs, JEREMY HANDLEY, INDIVIDUALLY AND NEXT FRIEND OF AURORA HANDLEY AND BRENDAN HANDLEY, AND BECKY HANDLEY, respectfully request that this Honorable Court approve the settlement of the minors' portion of the claim.

Respectfully submitted,

LEVINE BENJAMIN, P.C.

/s/ GREG M. LIEPSHUTZ (P37573)

Attorneys for Plaintiff

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Dated: June 13, 2019

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

/s/ Suzanne McCarrey

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EXHIBIT A

UNITED STATES DISTRICT COURT
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JEREMY HANDLEY, INDIVIDUALLY
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AND BRENDEN HANDLEY, AND BECKY
HANDLEY

CASE NO. 1:17-cv-00387-PLM-RSK
HON. PAUL L. MALONEY

Plaintiff,
V

CITY OF KALAMAZOO, et al,

Defendants

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SETTLEMENT RESOLUTION AND RELEASE

Any and all claims asserted or that could have been asserted by all Plaintiffs and their representatives, in this litigation are settled on the following terms:

1. Defendants to pay eight thousand five hundred dollars, (\$8,500.00) to Plaintiffs and their attorneys, LEVINE BENJAMIN, P.C. attorney costs and fees will come out of this amount, except Defendants will pay mediation cost. This amount represents the entire and complete amount of a compromise settlement and the respective parties will each bear their own costs, fees, and expenses, and any attorneys' fees owed by the Plaintiff will be paid out of the settlement amount and not in addition thereto.

2. Additional medical cost and liens, future, past and present, shall be the sole responsibility of Plaintiffs.
3. This settlement agreement is not and shall not be construed as an admission by the Defendants of the truth of any allegation or the validity of any claim asserted in this lawsuit or of Defendants' liability therein. Furthermore, none of the terms of the settlement agreement may be offered or received in evidence or in any way referred to in any civil, criminal or administrative action or proceeding other than proceedings that may be necessary to consummate or enforce this settlement agreement.
4. Plaintiffs for themselves, their heirs and personal representatives, fully and forever releases, acquits and discharges all Defendants, and their agents, employers and former employers, either in their official or individual capacities, from any and all actions, suits, debts, sums of money, accounts and all claims and demands of whatever nature, in law or in equity that are the subject of facts plead in- *Jeremy Handley, Individually and Next Friend of Aurora Handley, and Brenden Handley and Becky Handley v. City of Kalamazoo et. al.* 1:17-cv-00387, including but not limited to: (i) any and all claims for Constitutional violations against Defendants, and/or any damaged or destroyed property, (ii) any costs accrued arising out of Plaintiffs' interaction with Defendants, and/or any other employees of the City of Kalamazoo, and/or (iii) any claim or suit which he, his heirs, assigns and legal representatives, may heretofore or hereafter have had by reason of said incidents.
5. Plaintiffs represent and warrants that they are the sole and lawful owner of all rights, title and interests in and to every claim and other matter which they purports to release herein, and that he has not heretofore assigned or transferred, or purported or

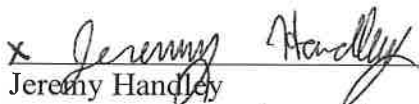
attempted to assign or transfer to any person or entity any claims or other matters herein released. Plaintiffs shall indemnify Defendants, and any of their current or former employers, whether in their official or individual capacities, against, and defend and hold harmless from, any claims arising out of or relating to any such assignment or transfer of any claims or other matters released herein.

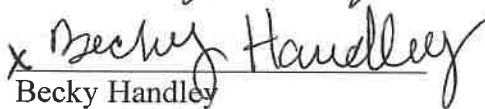
6. Compliance with all applicable federal, state, and local tax requirements shall be the sole responsibility of Plaintiffs. The parties hereto acknowledge and agree, however, that this settlement is intended to compensate Plaintiffs for their constitutional claims and not lost wages, profits, or other income. Notwithstanding the foregoing, such claims are fully and completely released hereby.
7. This settlement agreement contains the entire agreement between the parties hereto, and Plaintiffs acknowledge and agree that no promise or representation not contained in this agreement has been made to them, and they acknowledges and represents that this settlement agreement contains the entire understanding between the parties, and contains all terms and conditions pertaining to the compromise and settlement of the disputes referenced herein. No statement, remark, agreement, or understanding, oral or written, that is not contained herein shall be recognized or enforced, nor does this settlement agreement reflect any agreed upon purpose other than the desire of the parties to reach a full and final conclusion of the litigation and to resolve that suit without the time and expense of further litigation.
8. Plaintiffs further agrees and direct that neither them, their agents, nor their attorneys, will disclose the terms or conditions of this settlement unless to immediate family, attorneys, tax advisors, or as otherwise required by law or any governmental agency.

9. The claims of Plaintiffs shall be dismissed with prejudice and without costs consistent with the terms of this document.
10. This entire agreement however is subject to district court approval due to the fact that there are minor Plaintiffs involved.


Dated:

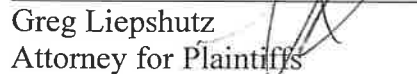
Approved and Accepted:

x 
Jeremy Handley

x 
Becky Handley

x 
Guardian and Next of Friend of Aurora Handley

x 
Guardian and Next of Friend of Brenden Handley


Greg Liepshutz
Attorney for Plaintiffs

/s/Richard O. Cherry
Richard O, Cherry
Attorney for Defendants

EXHIBIT B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
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CERTIFICATE OF CONCURRENCE

Plaintiff represents to this Honorable Court that he has discussed the relief
sought in his Motion to Reopen Case for the Purpose of Settling Minor's Claim and
Defendant concurs in the relief sought.

/s/ Greg M. Liepschutz
Attorney for Plaintiff

/s/ Richard O. Cherry (with permission)
Attorney for Defendant



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